



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

June 2, 2016

Memorandum for: Deputy Commissioner Trials

Re: **Police Officer George Sotomayor**  
Tax Registry No. 939509  
Housing Police Service Area 1  
Disciplinary Case No. 2013-10283

The above named member of the service appeared before Assistant Deputy Commissioner Jeff S. Adler on March 3, 2016, charged with the following:

**DISCIPLINARY CASE NO. 2013-10283**

1. Police Officer George Sotomayor, assigned to the 26 Precinct, on duty, on or about July 31, 2013, at a location known to the Department, in [REDACTED] wrongfully engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: Said Police Officer was engaged in a physical altercation with Person A.

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

2. Police Officer George Sotomayor, assigned as indicated in Specification #1, while on or about July 31, 2013, at a location known to the Department, in [REDACTED] wrongfully engaged in conduct prejudicial to the good order, efficiency and discipline of the Department, to wit: said Police Officer obstructed the breathing of Person A.

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

3. Police Officer George Sotomayor, assigned as indicated in Specification #1, while off-duty, on or about and between [REDACTED] er 7, 2012 and August 3, 2013, at a location known to the Department, in [REDACTED], having been involved in an off-duty incident, did fail and neglect to report said incident to the desk officer, precinct of occurrence. (As amended)

**P.G. 212-32, Page 1, Paragraph 2, Note**

**OFF-DUTY INCIDENTS  
INVOLVING UNIFORMED  
MEMBERS OF THE SERVICE**

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4. Police Officer George Sotomayor, assigned as indicated in Specification #1, while off-duty, on or about August 19, 2013, at a location known to the Department, did fail and neglect to properly safeguard his off-duty firearm, as required.

**P.G. 204-08, Page 2, Paragraph 7**

**FIREARMS - GENERAL  
REGULATIONS**

5. Police Officer George Sotomayor, assigned as indicated in Specification #1, while off-duty, on or about November 7, 2012 and August 3, 2013, at a location known to the Department, in [REDACTED], wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer made threatening telephone calls and text messages to Person A. *(As amended)*

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT -  
PROHIBITED CONDUCT**

6. Police Officer George Sotomayor, assigned as indicated in Specification #1, while off-duty, on or about July 24, 2013, at a location known to the Department, in [REDACTED], wrongfully engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit: said Police Officer was engaged in a physical altercation with Person A. *(As amended)*

**P.G. 203-10, Page 1, Paragraph 5**

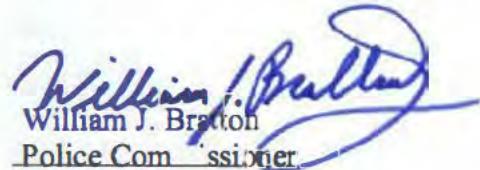
**PUBLIC CONTACT -  
PROHIBITED CONDUCT**

In a Memorandum dated April 5, 2016, Assistant Deputy Commissioner Jeff S. Adler found Police Officer George Sotomayor Guilty of Specification Nos. 2 and 5, and Guilty, after he Pleaded Guilty, of Specification No. 4, and Not Guilty of Specification Nos. 1, 3 and 6, in Disciplinary Case No. 2013-10283. Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct for which Police Officer Sotomayor has been found Guilty and deem that separation from the Department is warranted. However, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Police Officer Sotomayor at this time.

It is therefore directed that an *immediate* post-trial negotiated agreement be implemented with Police Officer Sotomayor in which he shall immediately file for vested-interest retirement, forfeit thirty (30) suspension days (previously served), waive all time and leave balances, including terminal leave, and waive all suspension days, with and without pay, if any, and be placed on one (1) year dismissal probation.

Such vested-interest retirement shall also include Police Officer Sotomayor's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department. If Police Officer Sotomayor does not agree to the terms of this vested-interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented **IMMEDIATELY**.

  
William J. Bratton  
Police Commissioner





POLICE DEPARTMENT

April 5, 2016

-----X  
In the Matter of the Charges and Specifications : Case No.  
- against - : 2013-10283  
Police Officer George Sotomayor :  
Tax Registry No. 939509 :  
Housing Police Service Area 1 :  
-----X

At: Police Headquarters  
One Police Plaza  
New York, New York 10038

Before: Honorable Jeff S. Adler  
Assistant Deputy Commissioner Trials

APPEARANCE:

For the Department: Beth Douglas, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent: Marvyn Kornberg, Esq.  
125-10 Queens Blvd. - Suite 12  
Kew Gardens, New York 11415

To:

HONORABLE WILLIAM J. BRATTON  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

**Charges and Specifications:**

1. Said Police Officer George Sotomayor, assigned to the 26 Precinct, while off-duty, on or about July 31, 2013, at a location known to the Department, in [REDACTED], wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer was engaged in a physical altercation with Person A.

P.G. 203-10, Page 1, Paragraph 5 - GENERAL REGULATIONS

2. Said Police Officer George Sotomayor, assigned as indicated in Specification # 1, while off-duty, on or about July 31, 2013, at a location known to the Department, in [REDACTED], wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer obstructed the breathing of Person A.

P.G. 203-10, Page 1, Paragraph 5 - GENERAL REGULATIONS

3. Said Police Officer George Sotomayor, assigned as indicated in Specification # 1, while off-duty, on or about and between November 7, 2012 and August 3, 2013, at a location known to the Department, in [REDACTED], having been involved in an off-duty incident, did fail and neglect to report said incident to the desk officer, precinct of occurrence. *(As amended)*

P.G. 212-32, Page 1, Paragraph 2, Note - OFF DUTY INCIDENTS  
INVOLVING UNIFORMED MEMBERS OF THE SERVICE

4. Said Police Officer George Sotomayor, assigned as indicated in Specification # 1, while off-duty, on or about August 19, 2013, at a location known to the Department, did fail and neglect to properly safeguard his off-duty firearm, as required.

P.G. 204-08, Page 2, Paragraph 7 - FIREARMS-GENERAL  
REGULATIONS

5. Said Police Officer George Sotomayor, assigned as indicated in Specification # 1, while off-duty, on or about November 7, 2012 and August 3, 2013, at a location known to the Department, in [REDACTED], wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer made threatening telephone calls and text messages to Person A. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 - GENERAL REGULATIONS

6. Said Police Officer George Sotomayor, assigned as indicated in Specification # 1, while off-duty, on or about July 24, 2013, at a location known to the Department, in [REDACTED], wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer was engaged in a physical altercation with Person A. *(As amended)*

P.G. 203-10, Page 1, Paragraph 5 - GENERAL REGULATIONS



## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 3, 2016. Respondent, through his counsel, entered a plea of Guilty to Specification 4, and Not Guilty to the remaining five charges. The Department called Sergeant Stephen Hartley, Sergeant Elizabeth Liles, Sergeant Tara Cruz and Police Officer Jeremias Torres as witnesses. Person A did not testify despite efforts by the Department to secure her appearance: a Department investigator repeatedly tried calling Person A on her mobile phone, tried visiting two known addresses, and tried to subpoena her by mail and by affixing subpoenas to her door, all with negative results. Instead, several of her hearsay statements were admitted, through two prior Department interviews and two third-hand accounts. Respondent testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review.

## DECISION

Specifications 1 and 2 allege misconduct on July 31, 2013; the first specification charges Respondent with stabbing Person A, and the second alleges that he choked her. Specification 3 charges Respondent with failing to notify the precinct regarding an off-duty incident. Immediately before trial, Respondent pleaded guilty to Specification 4, for failure to safeguard his firearm. Specification 5 charges Respondent with making threatening phone calls and sending a threatening text. Specification 6 alleges a physical altercation on July 24, 2013. After reviewing the evidence presented at the hearing, and assessing the credibility of the witnesses, I find Respondent guilty of Specifications 2 and 5, and not guilty of Specifications 1, 3, and 6.



## FINDINGS AND ANALYSIS

Sergeant Elizabeth Liles of Patrol Borough [REDACTED] Investigations Unit testified that on August 18, 2013, she interviewed Person A at her home regarding allegations that Respondent had assaulted her inside their [REDACTED] home on July 31, 2013. The sergeant recorded their discussion, and that interview, along with the accompanying transcript, were admitted into evidence (Dept. Ex. 4 and 4A). Sergeant Liles testified that Person A "seemed afraid" during the interview, as she was crying and pausing to think a lot during the questioning. (Tr. 106) In that interview, Person A stated that she was out on the night of July 30, 2013, arriving home about 1 am. Respondent, [REDACTED], yelled at her for being out late and for talking back to him. According to Person A, Respondent pushed her onto the couch and choked her, so that she was unable to breathe. Person A, who had been drinking alcohol earlier that evening, claimed that she didn't remember much of what happened after that, only that she was "fussing with him with a knife" by the table; she offered no elaboration on that comment. Person A stated that she recalled Respondent waking her up in bed to tell her that she had a huge cut on her leg and needed to go to the hospital; Person A maintained that she didn't remember what happened and didn't even feel the cut. Person A received 32 stitches to her left thigh at New York-Presbyterian Hospital. Two photographs of the injury were admitted into evidence (Dept. Ex. 6A and 6B). Person A acknowledged that she didn't report the incident to police, though she did tell her older sister as well as her Air Force supervisor and her Air Force friend, Person B, what had happened. Person A stated that she feared for her life and wanted an order of protection against Respondent.

Sergeant Tara Cruz, formerly of IAB, testified that on August 19, 2013, she conducted a phone interview with Person A regarding the events of July 31; a recording



of that discussion, and the accompanying transcript, were admitted into evidence (Dept. Ex. 5 and 5A). In that interview, Person A again stated that Respondent pushed her onto the couch and choked her. Respondent was upset that she was out late, and started calling her names. Person A made no mention of a knife or her leg wound, though that likely was due to the sergeant's focusing her questions on past interactions between the parties, rather than asking more pointed questions regarding the events of July 31.

Sergeant Stephen Hartley, formerly with IAB, testified that sometime in August 2013, he was assigned to investigate the allegations that Respondent had assaulted Person A on July 31, 2013. Sergeant Hartley never spoke with Person A, but did confer with the prosecutor handling Respondent's case in [REDACTED] criminal court. Sergeant Hartley testified that on September 12, 2013, A.D.A. Raymond Valerio informed him that in addition to the alleged assault of July 31, Person A had told the prosecutor that on November 7, 2012, Respondent had made three phone calls to her; Person A recorded those calls, and they were admitted into evidence (Dept. Ex. 2) along with the accompanying transcripts (Dept. Ex. 3A, 3B, 3C). (Tr. 58-59) During those calls, Respondent can be heard screaming threats at Person A because she was disregarding his request that she post their engaged status on her Facebook page. For instance, at one point he screams at her, "If you don't do it, I'm gonna fuck you up." Later, he shouts, "I swear to God, Person A, if you don't do it, I'm gonna break your fucking laptop. I'm gonna break your fucking iPad, and I'm gonna break your fucking phone. And your fucking face at the same goddamn time." Soon after, he adds, "Person A, if you don't do it, I'm gonna turn around and not even go to work today. And I'll fucking, oh my God,



I'll fucking I don't care if I get in trouble. Doesn't matter. The pleasure that I'm gonna have in breaking everything is going to be better than that."

The sergeant also testified that A.D.A. Valerio had informed him that according to Person A, on August 3, 2013 she received from Respondent a threatening text; that text was not preserved as evidence. (Tr. 58-59, 67-68) Further, Sergeant Hartley testified that A.D.A. Valerio also had stated that Person A had claimed that on July 24, 2013, Respondent pushed her, causing her to strike her chin on a window sill; no further details of that alleged incident were elicited. (Tr. 58-59) Regarding the alleged assault of July 31, Sergeant Hartley testified that from his review of a worksheet prepared by Sergeant Geraldino on August 21, 2013, Person A had stated in an interview that she did not recall how she was cut, through a struggle or by accidentally cutting herself. (Tr. 88-89)

Officer Jeremias Torres, who knows Person A from the Air Force Reserves (professionally, not as a friend), testified that on August 18, 2013 he notified IAB of a conversation he had with another Air Force colleague, Person B. According to Officer Torres, Person B told him that Person A, her best friend, had told her that Respondent had behaved abusively toward her. Specifically, Respondent had choked her and stabbed her in the leg causing injuries. (Tr. 132-134, 149) Officer Torres also testified that Person B told him that Person A had said she lied to hospital personnel about the stab wound, saying that she was drunk and fell on a knife. (Tr. 147) Person B emailed photographs of the leg injury to Officer Torres, who forwarded them to IAB; those are the photographs in evidence. Officer Torres acknowledged that he did not speak directly with Person A, and that all his information came from his conversation with Person B. (Tr. 134-135, 150) Officer Torres further claimed that according to Person B, Person A had stated that

POLICE OFFICER GEORGE SOTOMAYOR

Respondent had held the knife to his own throat and to Person A's throat; however, a prior police report worksheet of IAB's interview with Officer Torres makes reference only to the knife being held to Respondent's own throat, with Respondent threatening to hurt himself. (Tr. 142-145)

Respondent introduced into evidence Person A's medical records from about 0445 hours on July 31, 2013. (Resp. Ex. C) Those records confirm the laceration to Person A's leg and the 32 stitches she received. In those records, Person A states that she received the injury "by falling onto garbage which contained glass." She also stated that she had been drinking when she fell. Person A denied experiencing pain from the laceration, and there is no mention of her being choked.

Respondent testified that before joining the Department, he was a Marine who saw active combat in Iraq and Afghanistan. As a Marine he was trained to react quickly, without taking the time to think about the situation. (Tr. 178) [REDACTED]

[illegible]



Respondent admitted making the phone calls to Person A on November 7, 2012, and also to sending a text to her on August 3, 2013 that stated "Yeah, okay, Person A, fuck with me and I'll put a scar on your beautiful face." Respondent explained that he did not mean those communications as a threat; it was just how he and Person A spoke with each other. At that time, he did not realize he was [REDACTED]

[REDACTED]

[REDACTED]

he would not make those types of communications again. He stated that while he no longer is in a relationship with Person A, he still has contact with her because they have a child in common. There no longer is an order of protection and there have been no additional complaints against him. (Tr. 163-165)

Regarding the incident of July 31, 2013, Respondent testified that he neither choked nor stabbed Person A. According to Respondent, Person A came home late and highly intoxicated, wearing high heels and having difficulty standing. Person A wanted to have sex with Respondent; when Respondent refused, Person A said she was going to leave. Respondent heard her fall to the floor, and then Respondent noticed for the first time that Person A was bleeding from her leg, though not heavily. Respondent stated that he cleaned the wound, applied a tourniquet, and drove her to the hospital. (Tr. 165-172, 190-192, 200, 203) Respondent maintained that he does not know for sure how or when the injury happened, suggesting it could even have occurred before she came home. (Tr. 169, 204-205)

Similarly, Respondent denied that he pushed or struck Person A on July 24, 2013, as alleged in Specification 6. Respondent testified that no physical altercation with



Person A occurred on that day. (Tr. 172) Respondent did admit guilt on Specification 4, for failing to safeguard his firearm on August 19, 2013. According to Respondent, he left his firearm in the trunk of his car because he was scheduled to go to the range that week and didn't have a safe inside his home. (Tr. 179)

Specifications 1 and 2 allege misconduct on July 31, 2013: before opening statements, the Department clarified that Specification 1 refers to the allegation that Respondent cut Person A with a knife, and Specification 2 refers to the charge that Respondent choked Person A. Both accusations rely heavily on hearsay evidence, including two recorded interviews with Person A and a third-hand account from an Air Force colleague. Hearsay evidence is admissible in an administrative tribunal, and a case may be proven with such evidence provided it is found to be sufficiently reliable and probative on the issues to be determined. See *Ayala v. Ward*, 170 A.D.2d 235 (1<sup>st</sup> Dept. 1991); *In the Matter of 125 Bar Corp v. State Liquor Authority of the State of New York*, 24 N.Y.2d 174 (1969). To be sure, it is preferable to have testimony from a live witness, where opposing counsel has the opportunity to cross-examine, and the court can observe the demeanor of the witness. But in the absence of such live testimony here, this tribunal listened carefully to the prior recorded statements of Person A, with the aid of the accompanying transcripts, and considered the hearsay testimony of Officer Torres as well.

In both of her Department interviews in August, 2013, Person A clearly stated that Respondent choked her. Person A specifically articulated how Respondent was upset with her, threw her on the couch, and started to choke her, interfering with her ability to breathe. Even though she did not initially report the July 31 incident to police,



she did tell her sister and Air Force colleagues; although there was no evidence of the precise time she told them, it had to have been fairly prompt since Officer Torres notified IAB on August 18. When Person A was then interviewed by the Department on August 18 and 19 as to the details of that incident, she remained consistent and convincing in her account of how Respondent choked her. These two recorded statements, where Person A is forthcoming to police about how she was choked, constitute reliable corroboration that Respondent did, indeed, choke Person A on July 31.

In contrast, Respondent was not a credible witness. He often appeared hostile and uncooperative during cross-examination, answering questions with comments such as, "I don't know where you're going with this." At one point, Respondent responded to a question from the Department's attorney by angrily stating, "You're asking me a question that you already know." (Tr. 200-201) With answers like this, and his combative demeanor on the stand, Respondent gave the appearance of a witness who was reluctant to answer questions truthfully. Respondent unsuccessfully sought to shift the blame onto Person A, claiming that she was the one who was upset when he rebuffed her sexual advances. I credit Person A's account of the choking, reject Respondent's self-serving denial, and find Respondent guilty of Specification 2.

The hearsay evidence in support of the first specification is conflicting and therefore less compelling. Officer Torres testified that according to his Air Force colleague Person B, Person A had told Person B that Respondent stabbed her, and then lied to hospital personnel regarding the wound. That account might have been more persuasive if Person B, herself, had appeared to testify about her conversation with Person A; but as elicited through Officer Torres, the testimony constituted double-hearsay, and, by itself,



had limited probative value. Officer Torres also gave seemingly conflicting accounts about where the knife was held, thereby adversely affecting his reliability. Further, Officer Torres testified that Person B had reported to him that Person A said the July 31 incident occurred in Westchester, when in fact it occurred at the parties' [REDACTED] home. (Tr. 141-142) That distinction is not particularly important on its face, but does demonstrate the danger of how details may change in the re-telling, affecting their reliability. This tribunal does not doubt that some form of communication occurred between Person A and her Air Force colleagues regarding the July 31 incident. However, the double-hearsay testimony as to the details of that communication is unreliable, and does not carry with it the precision necessary to constitute reliable proof that Respondent stabbed Person A.

Further, whereas the choking charge was corroborated by Person A's two recorded statements to police, the allegation of stabbing received no such corroboration from Person A. In her in-person interview with Sergeant Liles, Person A stated she was drinking, did not remember how her leg was cut, and did not even feel it. She did note that she and Respondent had been "fussing" with a knife; although deeply troubling, that allegation does not constitute proof that Respondent stabbed her. In her phone interview with Sergeant Cruz, there is no mention at all of a knife or the leg wound, though that omission may well be due to the questioning by the sergeant, who focused her inquiries elsewhere. The photographs in evidence depict an injury that on its face appears consistent with a stab wound from a knife, and the medical records confirm that Person A suffered a laceration requiring 32 stitches. However, in those same medical



records are statements by Person A attributing her injury not to a stabbing, but to having fallen on garbage which contained glass.

On the one hand, this tribunal does not credit Respondent's self-serving story about what occurred between him and Person A inside their home on July 31. Similarly unpersuasive is Person A's suggestion that she cut herself when falling on glass; Person A made clear that she was afraid of Respondent, and this fear likely motivated the account she gave at the hospital. However, notably absent from the record is any reliable evidence as to the precise circumstances in which the leg wound was inflicted, or Respondent's role in inflicting it. (Tr. 76-77) The record has failed to establish, by a preponderance of the credible evidence, that Respondent, in fact, stabbed Person A in the leg, and I find him not guilty of Specification 1.

This tribunal is similarly unpersuaded by the evidence in support of Specification 6, which alleges a physical altercation between Respondent and Person A on July 24, 2013. The only evidence offered in support of that accusation was also double-hearsay: Sergeant Hartley testified that he was told by a prosecutor that Person A had claimed Respondent pushed her causing her to strike her chin on that date. Although the sergeant came across as detailed and credible as a witness, he, himself, did not hear the statement attributed to Person A. Unlike Specification 5, where recordings of the calls provided valuable corroboration, there was no supporting evidence of an altercation on July 24. Without any credible evidence to corroborate that accusation, the proof has failed to establish that there was a physical altercation between the parties on that date, and I find Respondent not guilty of Specification 6.

Respondent essentially admitted the conduct alleged in Specification 5, that he made three phone calls to Person A on November 7, 2012, and that he texted her on August 3, 2013. Recordings of the calls, themselves, are in evidence. Respondent argues, however, that the calls and text were not meant to be threatening, and that Person A would not have perceived them as threats. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] the evidence has proven that Respondent made threatening calls to Person A, and sent a threatening text to her as well. In the three calls, which proceed one after the other and essentially are one extended call, Respondent is demanding that Person A update her Facebook page [REDACTED], and appears furious with her non-compliance. Respondent violently screams at her, threatening to do her bodily harm and to damage her property. This tribunal takes no solace in Respondent's claim that this is how they normally spoke with each other; Respondent appears to be in a rage, and the threats he makes sound real and frightening. As for the text, there was no context provided for the circumstances in which it was sent. Even so, on its face the message "Fuck with me and I'll put a scar on your beautiful face" is similarly controlling, and similarly threatening. Accordingly, I find Respondent guilty of Specification 5.

Specification 3 alleges that Respondent failed to report an off-duty incident to the precinct. There was some confusion before opening statements as to which particular incident this charge referred. In any event the proof of this offense was lacking, as Respondent was not even questioned about it. No specific evidence was elicited as to



Respondent's failure to report any of the incidents in question, and I find him not guilty of Specification 3.

### PENALTY RECOMMENDATIONS

Respondent has been found guilty of engaging in a physical altercation with Person A, during which he choked her. He also has been found guilty of making threatening phone calls and sending a threatening text to Person A. Respondent also has pleaded guilty for failing to safeguard his firearm. The Department recommends that Respondent be terminated from the Department, while Respondent has argued for a penalty short of termination.

In order to determine an appropriate penalty, Respondent's service record was examined. See *Matter of Pell v. Board of Education*, 34 NY 2d 222 (1974). Respondent was appointed to the Department on July 11, 2005. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

In reaching an appropriate penalty, one must consider Respondent's misconduct not in isolation, but in the context of the history that preceded it. Respondent has two prior disciplinary findings against him for incidents that also involved Person A. In *Disciplinary Case No. 83863/08* (July 22, 2009), Respondent was found guilty of having a verbal and physical altercation with Person A on March 8, 2008. The evidence in that case was that Respondent returned home to find that Person A had been drinking a lot of wine. They argued, and Person A suggested that maybe they should end their relationship. Respondent became mad, grabbed Person A's arm, and threw her to the floor. During the ensuing struggle, Respondent's elbow or arm came in contact with Person A's nose, causing bruising. Person A also had bruising to her chest and wrists.



Even though Person A told a responding EMT that she did not remember how the injury happened and that she may have hurt herself accidentally, the tribunal found that Respondent did cause her injuries, and rejected his claim that the injuries were caused when Person A tripped and fell. Respondent forfeited thirty (30) days already served on pre-trial suspension as his penalty.

Subsequent to that case, in *Disciplinary Case No. 3087/10* (Sept. 17, 2012), Respondent was found guilty of being involved in a physical altercation with Person A on October 31, 2010. The allegation in that case was that Respondent, upset because Person A had not answered her phone when he called her earlier, screamed and cursed at her. They started to fight, and Respondent grabbed Person A and told her to shut up. When Person A said that she was going to call the police, Respondent told her that she was going to ruin his career, and proceeded to choke her and punch her in the legs. Even though the Court did not explicitly credit these allegations, Respondent was found guilty for engaging in an avoidable physical altercation. Respondent forfeited thirty (30) days already served on pre-trial suspension as the penalty for that case.

For the third time, Respondent has been found guilty for engaging in a physical altercation with Person A. In this case, he pushed her onto a couch and choked her to the point where she was unable to breathe, because he was upset that she returned home late. This tribunal recognizes that the evidence was insufficient to prove that Respondent also stabbed Person A, causing the laceration to her leg that required 32 stitches. However there was credible evidence that Respondent and Person A “fussed” over a knife during the altercation, which itself is troubling.



Also extremely troubling is the threatening text, and the phone calls where Respondent screams at Person A at the top of his lungs, threatening to cause her bodily harm and to damage her property because she wouldn't update her Facebook page to

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Respondent is now capable of controlling his behavior in an acceptable way. During the trial, Respondent reacted with inappropriate anger to legitimate questions from the Department Advocate, and even interrupted the Advocate's closing argument with an unwarranted outburst. Further, this tribunal finds that Respondent completely fabricated his account of what occurred on July 31, 2013. Rather than accept any responsibility for the altercation that day, Respondent tried, unsuccessfully, to shift the responsibility onto Person A, just as he had done at his prior trials.

This disturbing pattern of assaultive, impulsive, abusive behavior, along with Respondent's refusal to take responsibility for his conduct, undermines confidence in Respondent's ability to serve as a New York City police officer. Although most disciplinary cases involving physical altercations do not result in termination, there is recent precedent that supports termination here. In *Disciplinary Case No.* [REDACTED], a nine-year police officer with no disciplinary record was terminated for unlawfully imprisoning and physically assaulting [REDACTED]. In noting that the misconduct in that case "was not a single, impulsive act of violence," the tribunal found that Respondent's conduct was so troubling and egregious as to warrant dismissal from

the Department. Similarly, Respondent's conduct in this case, combined with his prior disciplinary history, is particularly egregious. Respondent's repeated acts of domestic violence toward Person A are wholly inconsistent with his continued status as a member of this Department. Based on the serious nature of Respondent's misconduct, and the need for progressive discipline, I recommend that Respondent be DISMISSED immediately from the Department.

Respectfully submitted,



Jeff S. Adler  
Assistant Deputy Commissioner Trials





From: Assistant Deputy Commissioner Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM  
POLICE OFFICER GEORGE SOTOMAYOR  
TAX REGISTRY NO. 939509  
DISCIPLINARY CASE NO. 2013-10283

Respondent was appointed to the Department on July 11, 2005. His last three annual evaluations were a 3.5 "Highly Competent/Competent" in 2013, and a 3.0 "Competent" in 2012 and 2011. He has been awarded no medals or commendations.

[REDACTED]

Additionally, Respondent has previous disciplinary history. In 2009 he was found Guilty for engaging in an off-duty verbal and physical altercation with an individual known to the Department, and forfeited thirty (30) days already served on pre-trial suspension. Then, in 2012 Respondent was found Guilty for engaging in an off-duty domestic-related physical altercation with the same individual, and for failing to request a supervisor to respond; Respondent again forfeited thirty (30) days already served on pre-trial suspension.

Respondent has been suspended from duty three times; the first time was from March 8, 2008 to April 6, 2008, the second time was from October 31, 2010 to November 29, 2010, and the third time, related to the current charges, was from August 19, 2013 to September 17, 2013. From June 5, 2008 until March 31, 2011, Respondent was placed on Level 2 disciplinary monitoring. On March 31, 2011, Respondent's monitoring was upgraded to Level 3 special monitoring and this still remains in effect.

For your consideration.

Jeff S. Adler  
Assistant Deputy Commissioner Trials